

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X

WILLIAM MCCAFFREY,

Plaintiff,

-against-

DAVID DIAZ, et al.

**JOINT PROPOSED**  
**QUESTIONS FOR VOIR**  
**DIRE**

11 CV 01636 (RJS)

Defendants.

----- X

The Parties, by their attorneys, Glenn A. Garber, P.C., Irving Cohen, Esq, and Michael A. Cardozo, Corporation Counsel of the City of New York, pursuant to Rule 47 of the Federal Rules of Civil Procedure, respectfully submit the following proposed questions for *voir dire*. Plaintiff's proposed questions appear in **bold-faced text**; defendants' proposed questions appear in underlined text; and the plain text represents the parties' agreed *voir dire* questions subject to the court's review.

1. Please give your name.
2. Where do you live? Please provide the town and county.
3. Are you employed? If yes, please describe your position. If you are retired, what was your last employment? If you are unemployed, what was your last employment and when was it?
4. Do you live with someone? If yes, what is that person's occupation?
5. Are you married or do you have a domestic partner?

6. Do you have children? How many? What ages? If you have adult children, what are their occupations?
7. Please describe your educational background, including any colleges and graduate schools.
8. Have you ever practiced law, been a member of any bar, or attended any law school classes?
9. Do you regularly read any newspapers or magazines? What are they?
10. Do you regularly watch television? What T.V. shows do you watch?
11. What, if any, are your activities or hobbies?
12. Do you use the internet? If yes, do you ever read or post blogs? Which ones? Do you use Twitter? Do you use Facebook?
13. Have you or a member of your family or household or any close friend ever been involved in a lawsuit of any kind? If yes, please describe what the lawsuit was about and whether the result was satisfactory or unsatisfactory.
14. Have you ever been a witness for a party bringing a lawsuit? If yes, please describe the case and the nature of your [prospective] testimony.
15. Have you ever been a juror before? In a civil or criminal case? Did the case go to verdict? Were you able to participate and deliberate freely, without undue influence from the other jurors? Have you ever been on a Grand Jury? Did you actively participate in the deliberation process? Was your experience as a juror a positive or a negative experience? Would you like to sit on the jury here? Why? Would anything about your prior jury service affect your service on this case?

16. Is any member of your family or are any of your close friends a lawyer? If yes, please describe your relationship to each such person and the type of law that person practices.
17. Have you or anyone in your family ever been employed by a local, state or federal agency? If so, please describe. If so, would that prevent you from sitting impartially on this panel?
18. Have you, or has any member of your family, or have any of your friends ever worked for a New York City Agency or other City Agency such as the police department, fire department, sanitation department? If so, what positions were held and when?
- 19. Are any members of your family or close friends employed by a law enforcement agency or police department? What is the nature of your relationship with them? Do you discuss your work with them?**
- 20. Do you have any reluctance to accept that law enforcement agents, such as police officers, can improperly influence civilian witnesses to withhold information to prosecutors during the investigation of a criminal case and/or influence them to testify falsely at a criminal trial?**
- 21. Do you have any reluctance to accept that police officers, like any other person, can come into court and fail to tell the truth despite the fact that they are under oath?**
22. What is your perception of the New York City Police Department and its officers? Have you or a member of your family or household or any close friend ever had any interaction with any New York City police officers or employees of the police department? If so, please give details, for example: as a detainee, an arrestee, result of a search warrant, receipt of a parking ticket. [Can be explained outside the presence of the other

prospective jurors.] What was your impression of the police officers following the interaction?

23. Do you have any bias against police officers? If so, please explain.
24. Are you influenced by how police officers are portrayed in the media? If yes, how?
25. Have you or a family member or close friend ever made a complaint about an officer, a sergeant, a lieutenant, a captain or any police officer or City employee? [If so, describe outside the presence of the other potential jurors.]
26. Have you or has any member of your family or any close friend ever been subjected to arrest by a New York City police officer, a sergeant, a lieutenant, or a captain?
27. Have you or has any member of your family or any close friend ever been detained in a jail, prison, or other correctional facility? [If so, describe outside the presence of the other potential jurors.]
28. Do you believe that the fact that the plaintiff started this lawsuit and is here today for trial means that there must be at least some merit to the plaintiff's allegations?
29. Do you believe that a person who spent time incarcerated and was later exonerated is entitled to compensation?
30. Do you have any reason to believe that anything in your life experience would tend to make you partial to one side or the other in this case?
31. Will you be able to deliberate based solely on the evidence presented at trial and not based on any other information?
32. If, after hearing the evidence and the instructions of the judge, you found that plaintiff may have suffered an injury, but that plaintiff failed to prove that his injuries resulted

from any unlawful conduct by the defendants, would you hesitate to return a verdict for the defendant? If so, why?

33. Would you be unable to apply the law as you are instructed to do so by the Judge?

34. Would you be able to evaluate each witness' credibility objectively, without bias or prejudice?

35. Plaintiff has the burden to prove his case. This burden never shifts to the defendants. Do you believe that this burden placed solely on the plaintiff is fair? In light of this instruction, is there any reason why you could not follow this instruction when you deliberate?

36. Is there anything which has not been asked which you would want to tell the Court about and which may be a factor in your ability to be fair and impartial in this case? You may speak to me and counsel privately if you wish.

Dated: New York, New York  
January 3, 2014

Glenn A. Garber, Esq.  
*Attorney for Plaintiff*  
350 Broadway, Suite 1207  
New York, NY 10013

Irving Cohen, Esq.  
*Attorney for Plaintiff*  
233 Broadway, Suite 2701  
New York, NY 10279

By: \_\_\_\_\_/s/\_\_\_\_\_  
Glenn A. Garber  
Irving Cohen  
*Attorneys for Plaintiff*

MICHAEL A. CARDOZO  
Corporation Counsel of the  
City of New York  
*Attorney for Defendants Diaz and Arbuiso*  
100 Church Street  
New York, New York 10007

By: \_\_\_\_\_/s/\_\_\_\_\_  
Arthur G. Larkin  
*Senior Counsel*  
Vicki B. Zgodny  
*Senior Counsel*